IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO.1520 OF 2005

Ratnagiri Udyamnagar Coop.
Society, through its Chairman .. Appellant

Versus

State of Maharashtra & Ors. .. Respondents

Mr.S.B.Shetye for appellant
Ms.U.V.Kejriwal for respondents.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 8th August 2007.

P.C.

. The appellant filed Regular Civil Suit No.24 of 1999 in the Court of Joint Civil Judge,

Senior Division, Ratnagiri against the State Government and the Authorities claiming a permanent injunction restraining the respondents before me from demanding the rent at Rs.6,93,743/- per annum in respect of the plot of land allotted to the appellant plaintiff, admeasuring 17 Acres and 2 Gunthas for use by small industrial units on rent basis.

2. Appellant is the Cooperative housing society of such small unit holders and aggrieved by the dismissal of its suit by the trial court, an appeal was preferred before the lower appellate court which has also been dismissed, thereafter, the present appeal came to be filed.

3. After this matter was argued for some time and I brought to the notice of Mr.Shetye, learned Advocate for appellant that the trial court decree is of 2003 whereas lower appellate court’s decree is dated 19th September 2005.

Therefore, whether any further amounts have been paid and the notice which is subject matter of the proceedings has been enforced or not.

4. Upon taking instructions Mr.Shetye makes a statement that the demand raised by the State Government has not been enforced nor the lands resumed by the State. Appellant continues to be in possession thereof so also its members are holding individual units.

5. Mr.Shetye was also permitted to take instructions as to whether, while maintaining decrees of courts below, liberty should be given to the appellant to approach the State Government with a request in writing that demand as made should not be enforced and the rent be revised at some reasonable rate.

6. Mr.Shetye, after taking instructions, makes a statement that appellant is agreeable to

the above course of action. Therefore, by giving up their challenge to the subject decrees all that the appellants seek is liberty to approach State Government with a request in writing to fix lease rent at some reasonable rate and not at Rs.6,93,743/- per annum. This liberty is sought on account of difficulties faced by the unit holders who are small scale businessmen carrying on their business from the small units in an industrial area.

7. In the above circumstances, while maintaining the judgement and decree of the courts below, it is directed that the State Government shall not enforce its demand for a period of three months from today to enable the Appellant to approach the State/Competent Authority with a request in writing for fixing the lease rent by revising it not at Rs.6,93,743/- per annum but some other reasonable quantum. Needless to state that the State

Government shall pass such orders on the representations, after hearing appellant and/or its members, as are permissible in law. The State Government while doing so shall not be influenced by the decrees in State's favour or the liberty being granted by this Court. The State to take a Decision in accordance with prevailing policies and considering the requirement, need and nature of user by the appellant and its members. Second appeal is dismissed subject to above.

(S.C.DHARMADHIKARI, J)